

CLOSED, ECF, MAGCONSENT, PRO-SE

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:11-cv-06646-GWG

Seife v. National Institutes of Health et al
Assigned to: Magistrate Judge Gabriel W. Gorenstein
Cause: 05:552 Right to Privacy Act

Date Filed: 09/22/2011
Date Terminated: 06/13/2012
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff**Charles Seife**

represented by **Charles Seife**
20 Cooper Sq. # 628
New York, NY 10003
PRO SE

V.

Defendant**National Institutes of Health**

represented by **Alicia Marie Simmons**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Department of Health and Human Services**

represented by **Alicia Marie Simmons**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/22/2011	<u>1</u>	COMPLAINT against Department of Health and Human Services, National Institutes of Health. (Filing Fee \$ 350.00, Receipt Number 465401017238) Document filed by Charles Seife. (rdz) (ae). (Entered: 09/23/2011)
09/22/2011		SUMMONS ISSUED as to Department of Health and Human Services, National Institutes of Health. (rdz) (Entered: 09/23/2011)
09/22/2011		Magistrate Judge Gabriel W. Gorenstein is so designated. (rdz) (Entered: 09/23/2011)
09/22/2011		Case Designated ECF. (rdz) (Entered: 09/23/2011)
10/13/2011	<u>3</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Department of Health and Human Services served on 9/23/2011, answer due 10/14/2011. Service was accepted by Kathleen Sibelius, Sec. Dept. of Health and Human Services. Document filed by Charles Seife. (pl) (Entered: 10/18/2011)
11/21/2011	<u>5</u>	ENDORSED LETTER addressed to Judge Richard J Holwell from Alicia M Simmons dated 11/9/2011 re: Request to extend answer deadline to 12/1/2011. ENDORSEMENT: Extension Granted. Department of Health and Human Services answer due 12/1/2011; National Institutes of Health answer due 12/1/2011. (Signed by Judge Richard J. Holwell on 11/15/2011) (cd) (Entered: 11/21/2011)

12/01/2011	<u>6</u>	ANSWER to <u>1</u> Complaint. Document filed by Department of Health and Human Services, National Institutes of Health.(Simmons, Alicia) (Entered: 12/01/2011)
12/01/2011	<u>7</u>	CERTIFICATE OF SERVICE of Answer served on Charles Seife on 12/1/2011. Service was made by Mail. Document filed by Department of Health and Human Services, National Institutes of Health. (Simmons, Alicia) (Entered: 12/01/2011)
12/13/2011	<u>8</u>	ENDORSED LETTER addressed to Judge Richard J. Holwell from U.S. Attorneys Office (SDNY) dated 12/2/2011 re: The Government respectfully requests an additional two days, to December 7, 2011, to submit its response to plaintiff's pre-motion conference letter. Plaintiff consents to this, request, but asked that the Government reference in this letter plaintiff's request that the Court "schedule a status conference in the very near future." ENDORSEMENT: EXTENSION TO 12/7 GRANTED. STATUS CONFERENCE 12/19 10:00 AM. (Status Conference set for 12/19/2011 at 10:00 AM before Judge Richard J. Holwell.) (Signed by Judge Richard J. Holwell on 12/7/2011) (dj) (Entered: 12/13/2011)
12/13/2011	<u>9</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement). Referred to Magistrate Judge Gabriel W. Gorenstein. (Signed by Judge Richard J. Holwell on 12/12/2011) (cd) (Entered: 12/13/2011)
12/19/2011	<u>10</u>	PRO SE MEMORANDUM dated December 19, 2011 re: CHANGE OF ADDRESS for Charles Seife. New Address: 20 Cooper Sq. #628, New York, NY, 10003. (arc) (Entered: 12/19/2011)
12/19/2011		Minute Entry for proceedings held before Judge Richard J. Holwell: Pretrial Conference held on 12/19/2011. The Court refers the case to MJ Gorenstein for all purposes. (mro) (Entered: 01/17/2012)
12/21/2011	<u>11</u>	ORDER: At the pre-motion conference held today, the following due dates were set: Plaintiffs Motion for Summary Judgment: December 23, 2011 Defendants' Opposition to Plaintiffs Motion and Cross-Motion: January 13, 2012 Plaintiffs Reply and Opposition to Cross-Motion: January 27, 2012 Defendants' Reply: February 3, 2011. The motion is returnable before Judge Holwell. Motions due by 12/23/2011. Responses due by 1/13/2012 Replies due by 2/3/2011. (Signed by Magistrate Judge Gabriel W. Gorenstein on 12/19/2011) Copies Sent By Chambers. (rdz) (Entered: 12/21/2011)
12/23/2011	<u>12</u>	MOTION for Summary Judgment. Document filed by Charles Seife.(mro) (Entered: 12/27/2011)
12/23/2011	<u>13</u>	DECLARATION of Charles Seife in Support re: <u>12</u> MOTION for Summary Judgment. Document filed by Charles Seife. (mro) (Entered: 12/27/2011)
12/23/2011	<u>14</u>	STATEMENT OF UNCONTESTED FACTS PURSUANT TO LOCAL RULE 56.1. Document filed by Charles Seife. (mro) (Entered: 12/27/2011)
12/25/2011	<u>15</u>	MEMORANDUM OF LAW in Support re: <u>12</u> MOTION for Summary Judgment. Document filed by Charles Seife. (Attachments: # <u>1</u> Supplement, # <u>2</u> Supplement)(dj) (Entered: 12/28/2011)
01/04/2012	<u>16</u>	ORDER: A telephone conference in this matter will be held with Judge Holwell on Thursday, January 5, at 4:00PM. Defendants' counsel shall arrange to have plaintiff on the line before contacting chambers at 212-805-0256. (Telephone Conference set for 1/5/2012 at 04:00 PM before Judge Richard J. Holwell.) (Signed by Judge Richard J. Holwell on 1/4/2012) (lmb) (Entered: 01/04/2012)
01/10/2012	<u>17</u>	ENDORSED LETTER addressed to Judge Richard J. Holwell from United States Attorney dated 1/9/2012 re: counsel requests an extension of time, to January 17, 2012 to file its summary judgment motion in the above-referenced matter. ENDORSEMENT: SO ORDERED. (Motions due by 1/17/2012.) (Signed by Judge Richard J. Holwell on 1/10/2012) (dj) (Entered: 01/10/2012)
01/10/2012		Minute Entry for proceedings held before Judge Richard J. Holwell: Pretrial Conference held on 1/10/2012. Counsel requests an extension of time to file their summary judgment motions. Case referred to MJ Gorenstein for all purposes

		including trial. (rjm) (Entered: 01/20/2012)
01/11/2012	<u>18</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Consent under 28 U.S.C. 636(c) for all purposes (including trial). Referred to Magistrate Judge Gabriel W. Gorenstein. Motions referred to Gabriel W. Gorenstein. (Signed by Judge Richard J. Holwell on 1/10/2012) (mro) (Entered: 01/11/2012)
01/12/2012	<u>19</u>	CONSENT TO JURISDICTION BY A US MAGISTRATE JUDGE (Case No Longer Referred to Magistrate Judge) CASE ASSIGNED to Magistrate Judge Gabriel W. Gorenstein. (Signed by Judge Richard J. Holwell on 1/12/2012) (mro) (Entered: 01/12/2012)
01/17/2012	<u>20</u>	MOTION for Summary Judgment. Document filed by Department of Health and Human Services, National Institutes of Health.(Simmons, Alicia) (Entered: 01/17/2012)
01/17/2012	<u>21</u>	MEMORANDUM OF LAW in Support re: <u>20</u> MOTION for Summary Judgment. <i>and in Opposition to Plaintiff's Motion for Summary Judgment</i> . Document filed by Department of Health and Human Services, National Institutes of Health. (Simmons, Alicia) (Entered: 01/17/2012)
01/17/2012	<u>22</u>	DECLARATION of Susan R. Cornell in Support re: <u>20</u> MOTION for Summary Judgment.. Document filed by Department of Health and Human Services, National Institutes of Health. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G)(Simmons, Alicia) (Entered: 01/17/2012)
01/17/2012	<u>23</u>	COUNTER STATEMENT TO <u>14</u> Rule 56.1 Statement. Document filed by Department of Health and Human Services, National Institutes of Health. (Simmons, Alicia) (Entered: 01/17/2012)
01/27/2012	<u>24</u>	REPLY AND MEMORANDUM OF LAW in Opposition re: <u>20</u> MOTION for Summary Judgment. Document filed by Charles Seife. (lmb) (Entered: 01/31/2012)
02/03/2012	<u>25</u>	REPLY MEMORANDUM OF LAW in Support re: <u>20</u> MOTION for Summary Judgment.. Document filed by Department of Health and Human Services, National Institutes of Health. (Simmons, Alicia) (Entered: 02/03/2012)
02/07/2012	<u>26</u>	Letter addressed to Magistrate Judge Gabriel W. Gorenstein from Charles Seife dated 2/6/2012 re: The Plaintiff writes to correct a significant factual error in defendants' most recent filing. Document filed by Charles Seife. (ab) (Entered: 02/07/2012)
02/07/2012	<u>27</u>	Letter addressed to Magistrate Judge Gabriel W. Gorenstein from Alicia M. Simmons dated 2/7/2012 re: The Government writes to withdraw its argument, as set forth on page 21 of the Memorandum of Law in Opposition to Plaintiff's Motion for Summary Judgment and in Support of Defendants' Motion For Summary Judgment and on page 7 of the Reply Memorandum of Law in Further Support of Defendants' Motion for Summary Judgment. Document filed by Department of Health and Human Services and National Institutes of Health. (ab) (Entered: 02/07/2012)
02/10/2012	<u>28</u>	CERTIFICATE OF SERVICE of Reply Memorandum of Law in Further Support of Defendants Motion for Summary Judgment served on Charles Seife on 2/3/2012. Service was made by Electronic Mail. Document filed by Department of Health and Human Services, National Institutes of Health. (Simmons, Alicia) (Entered: 02/10/2012)
02/10/2012	<u>29</u>	CERTIFICATE OF SERVICE of Notice of Motion, the Counter Statement Pursuant to Local Rule 56.1, the Notice to Pro Se Litigation Who Opposes a Motion for Summary Judgment, the Memorandum of Law in Opposition to Plaintiffs Motion for Summary Judgment and in Support of Defendants Motion for Summary Judgment, and the Declaration of Susan R. Cornell dated January 17, 2012 served on Charles Seife on 1/17/2012. Service was made by Mail and Electronic Mail. Document filed by Department of Health and Human Services, National Institutes of Health. (Simmons, Alicia) (Entered: 02/10/2012)

04/10/2012	<u>30</u>	ORDER: The Government asserts that the financial/business information contained in the recusal lists is "obtained" from the OGE Form 1450s, Declaration of Susan Cornell, filed Jan. 17, 2012 (Docket # 22), and thus is barred from release by 5 U.S.C. App'x 4, § 107(a)(2). See Memorandum of Law in Opposition to Plaintiff's Motion for Summary Judgment and in Support of Defendants' Motion for Summary Judgment, filed Jan. 17, 2012 (Docket # 21) at 13–17. But the Government does not specifically explain how the financial/business information on the recusal lists, as opposed to the Form 450, was "required to be provided" under § 107(a)(2), which is the governing statutory standard. Nor does the Government explain why it argues that the financial/business information on the recusal lists comes within § 107(a)(2) but does not argue that the same information on the waiver determinations comes within this section. Accordingly, the Government is directed to provide additional information on the manner in which the recusal lists and waiver determinations are initiated and/or created; how it comes about that financial/business information appears on these forms; why the financial/business information is or is not "required to be provided" on these two classes of documents; and why the Government makes a distinction between recusal lists and waiver determinations as to the applicability of § 107(a)(2); as further set forth in this Order. (Signed by Magistrate Judge Gabriel W. Gorenstein on 4/10/2012) Copies Sent by Chambers.(mro) (Entered: 04/10/2012)
04/24/2012	<u>31</u>	SUPPLEMENTAL MEMORANDUM OF LAW in Support re: <u>20</u> MOTION for Summary Judgment.. Document filed by Department of Health and Human Services, National Institutes of Health. (Simmons, Alicia) (Entered: 04/24/2012)
04/24/2012	<u>32</u>	DECLARATION of Lawrence Tabak in Support re: <u>20</u> MOTION for Summary Judgment.. Document filed by Department of Health and Human Services, National Institutes of Health. (Simmons, Alicia) (Entered: 04/24/2012)
05/01/2012	<u>33</u>	SUPPLEMENTAL MEMORANDUM OF LAW in Opposition to defendants' cross motion for summary judgment re: <u>20</u> MOTION for Summary Judgment. Document filed by Charles Seife. (js) (Entered: 05/03/2012)
06/12/2012	<u>34</u>	OPINION AND ORDER re: #101913 <u>12</u> MOTION for Summary Judgment filed by Charles Seife, <u>20</u> MOTION for Summary Judgment filed by National Institutes of Health, Department of Health and Human Services. For the foregoing reasons, the plaintiff's motion for summary judgment (Docket# 12) is granted in part and denied in part. Defendants' motion for summary judgment (Docket# 20) is also granted in part and denied in part. The Government must produce to Seife copies of the requested waiver determinations without redaction of the information regarding the SGEs' financial interests and relationships. The Government may redact from these forms the letter labels that indicate which financial interests belong in whole or in part to the spouse or dependent child of the SGE. The Government need not produce unredacted versions of the recusal lists. The Clerk is requested to enter judgment. (Signed by Magistrate Judge Gabriel W. Gorenstein on 6/11/2012) Copies Sent By Chambers. (lmb) Modified on 6/13/2012 (jab). (Entered: 06/12/2012)
06/12/2012		Transmission to Judgments and Orders Clerk. Transmitted re: <u>34</u> Memorandum & Opinion to the Judgments and Orders Clerk. (lmb) (Entered: 06/12/2012)
06/13/2012	<u>35</u>	CLERK'S JUDGMENT That for the reasons stated in the Court's Opinion and Order dated June 11, 2012, Plaintiff's motion for summary judgment is granted in part and denied in part; Defendants' motion for summary judgment is also granted in part and denied in part; the Government must produce to Seife copies of the requested waiver determinations without redaction of the information regarding the SGEs' financial interests and relationships; the Government may redact from these forms the letter labels that indicate which financial interests belong in whole or in part to the spouse or dependent child of the SGE; the Government need not produce unredacted versions of the recusal lists. (Signed by Clerk of Court Ruby Krajick on 6/13/12) (Attachments: # <u>1</u> notice of right to appeal)(ml) (Entered: 06/13/2012)